

1999 Assembly Bill 551

Date of enactment: **February 24, 2000**  
Date of publication\*: **February 25, 2000**

# 1999 WISCONSIN ACT 30

AN ACT *to repeal* 628.77, 632.55, 644.05 (3), 646.31 (2) (d) 2. and 646.31 (2) (d) 3.; *to renumber* 645.68 (2); *to renumber and amend* 600.03 (28p), 632.47 (3), 646.13 (1) (b) (intro.), 646.13 (1) (b) 1. and 646.13 (1) (b) 2.; *to consolidate, renumber and amend* 646.31 (2) (d) (intro.) and 1.; *to amend* 76.635 (2), 76.635 (3), 76.67 (2), 601.13 (2), 601.43 (3), 601.43 (4), 601.715 (2) (b), 611.26 (1), 611.72 (3) (intro.), 611.78 (1m) (b) (intro.), 628.10 (2) (a), 644.04 (3) (intro.), 644.05 (1), 644.05 (2), 644.05 (4), 644.08, 644.09 (1) (intro.), 644.09 (1) (a), 644.09 (2), 644.09 (3), 644.09 (4), 644.14 (1), 644.16 (1), 644.16 (2), 644.16 (3) (a), 644.16 (4), 644.17, 644.18, 644.19, 644.28 (1), 644.28 (2) (a), 644.28 (3), 644.28 (4), 644.29, 645.68 (intro.), 645.68 (3), 645.68 (5), 645.68 (7), 645.68 (8) (a), 645.68 (8) (b), 645.68 (8) (c), 645.68 (8) (d), 645.68 (8) (e), 645.68 (8) (f), 646.15 (1) (a) 2., 646.31 (1) (a), 646.31 (2) (c), 646.31 (6) (a), 646.60 (1) (a), 646.60 (1) (b) (intro.), 646.60 (1) (b) 1. and 646.60 (1) (b) 2.; *to repeal and recreate* 644.26; and *to create* 600.03 (28p) (b), 600.03 (28p) (c), 601.42 (7), 601.465 (3) (e), 601.465 (3) (f), 611.72 (3m), 632.47 (3) (b), 645.68 (3c), 645.68 (3m), 645.68 (3r) (c), 646.13 (2) (e), 646.13 (2) (f), 646.13 (3) (intro.), 646.13 (3) (c), 646.13 (4), 646.31 (1) (cm), 646.31 (13) and 646.51 (9) of the statutes; **relating to:** priority of claims for distribution in insurance liquidations, the insurance security fund, conforming the mutual insurance holding company provisions to changes made in the nonstock corporation provisions, the certified capital investment credit for insurers and miscellaneous changes to insurance statutes.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 76.635 (2) of the statutes, as created by 1997 Wisconsin Act 215, is amended to read:

76.635 (2) CREDIT. An insurer that makes a certified capital investment may credit against the fees due under s. 76.60, 76.63, 76.65 ~~or~~ 76.66 or 76.67, for 10 years beginning with the year of the investment, either 10% of that investment or the amount by which the sum of the insurer's certified capital investments and the insurer's qualified investments exceeds the insurer's qualified investments in the taxable year before the insurer first claimed the credit under this section, whichever is less.

**SECTION 2.** 76.635 (3) of the statutes, as created by 1997 Wisconsin Act 215, is amended to read:

76.635 (3) CARRY-FORWARD. If the credit under sub. (2) is not entirely offset against the fees under s. 76.60, 76.63, 76.65 ~~or~~ 76.66 or 76.67 otherwise due, the unused balance may be carried forward and credited against those fees in the following years to the extent that it is not offset by those fees otherwise due in all the years between the year in which the investment was made and the year in which the carry-forward credit is claimed.

**SECTION 3.** 76.67 (2) of the statutes is amended to read:

76.67 (2) If any domestic insurer is licensed to transact insurance business in another state, this state may not require similar insurers domiciled in that other state to

\* Section 991.11, WISCONSIN STATUTES 1997-98: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

pay taxes greater in the aggregate than the aggregate amount of taxes that a domestic insurer is required to pay to that other state for the same year less the credit under s. 76.635, except that the amount imposed shall not be less than the total of the amounts due under ss. 76.65 (2) and 601.93 and, if the insurer is subject to s. 76.60, 0.375% of its gross premiums, as calculated under s. 76.62, less offsets allowed under s. 646.51 (7) or under s. 76.635 against that total, and except that the amount imposed shall not be less than the amount due under s. 601.93.

**SECTION 4.** 600.03 (28p) of the statutes is renumbered 600.03 (28p) (intro.) and amended to read:

600.03 (28p) (intro.) "Medicare replacement policy" means a, to the extent permitted under federal law, any of the following:

(a) A disability insurance policy or certificate issued to a resident of this state pursuant to a contract between the federal health care financing administration and a federally qualified health maintenance organization or a federally certified competitive medical plan to provide health care benefits to persons eligible for medicare under 42 USC 1395f, 1395x and 1395mm.

**SECTION 5.** 600.03 (28p) (b) of the statutes is created to read:

600.03 (28p) (b) A medicare+choice plan, as defined in 42 USC 1395w-28 (b) (1), or a contract with a medicare+choice organization, as defined in 42 USC 1395w-28 (a) (1).

**SECTION 6.** 600.03 (28p) (c) of the statutes is created to read:

600.03 (28p) (c) A plan, contract or policy that the commissioner by rule determines is similar to, or supplements or replaces, a program described in par. (a) or (b).

**SECTION 7.** 601.13 (2) of the statutes is amended to read:

601.13 (2) TERMS OF DEPOSIT. Unless otherwise provided by the law requiring or permitting the deposit, each deposit shall be held in trust: first, for the claimants under s. 645.68 (3); 2nd, for the claimants under s. 645.68 (3c); 3rd, for the claimants under s. 645.68 (3m); 4th, for the claimants under s. 645.68 (4); and thereafter, for all other creditors in the order of priority established by s. 645.68. No claim may be made against the deposit of an alien insurer unless the claim arises out of a transaction in the United States.

**SECTION 8.** 601.42 (7) of the statutes is created to read:

601.42 (7) EXPERTS. The commissioner may employ experts to assist the commissioner in an examination or in the review of any transaction subject to approval under chs. 600 to 646. The person that is the subject of the examination, or that is a party to a transaction under review, including the person acquiring, controlling or attempting to acquire the insurer, shall pay the reasonable

costs incurred by the commissioner for the expert and related expenses.

**SECTION 9.** 601.43 (3) of the statutes is amended to read:

601.43 (3) AUDITS OR ACTUARIAL OR OTHER EVALUATIONS. In lieu of all or part of an examination under subs. (1) and (2), or in addition to it, the commissioner may order an independent audit by certified public accountants or an actuarial or other evaluation by actuaries or other experts approved by the commissioner of any person subject to the examination requirement. Any accountant ~~or~~ actuary or other expert selected is subject to rules respecting conflicts of interest promulgated by the commissioner. Any audit or evaluation under this section is subject to s. 601.44, so far as appropriate.

**SECTION 10.** 601.43 (4) of the statutes is amended to read:

601.43 (4) ALTERNATIVES TO EXAMINATION. In lieu of all or part of an examination under this section, the commissioner may accept the report of an audit already made by certified public accountants or of an actuarial or other evaluation already made by actuaries or other experts approved by the commissioner, or the report of an examination made by the insurance department of another state or of the examination by another government agency in this state, the federal government or another state.

**SECTION 11.** 601.465 (3) (e) of the statutes is created to read:

601.465 (3) (e) An international, federal, state or local regulatory or law enforcement agency.

**SECTION 12.** 601.465 (3) (f) of the statutes is created to read:

601.465 (3) (f) An agent or employe of an agency described in par. (e).

**SECTION 13.** 601.715 (2) (b) of the statutes is amended to read:

601.715 (2) (b) An authorized insurer may change its registered agent no more than one time per year. ~~Any change of registered agent is effective on January 1 of the year following the delivery of the statement under par. (a).~~

**SECTION 14.** 611.26 (1) of the statutes is amended to read:

611.26 (1) INSURANCE SUBSIDIARIES. An insurance corporation may form or acquire subsidiaries to do any lawful insurance business. There is no limit on the amount of investment in such subsidiaries except that the commissioner may by order or rule establish a limit and, for purposes of ss. 623.11 and 623.12, the total value of the outstanding shares of such a subsidiary shall be deemed to equal the amount of surplus possessed by the subsidiary in excess of its security surplus, as determined by the commissioner under s. 623.12.

**SECTION 15.** 611.72 (3) (intro.) of the statutes is amended to read:

611.72 (3) **GROUNDS FOR DISAPPROVAL.** (intro.) The commissioner shall approve the plan if the commissioner finds, after a hearing, unless a hearing is not required under sub. (3m), that it would not violate the law or be contrary to the interests of the insureds of any participating domestic corporation or of the Wisconsin insureds of any participating nondomestic corporation and that:

**SECTION 16.** 611.72 (3m) of the statutes is created to read:

611.72 (3m) **HEARING NOT REQUIRED.** A hearing is not required under sub. (3) before approval of a proposed plan of merger or other plan for acquisition of control if the proposed merger is with, or the proposed acquirer is, an affiliate of the insurer and the proposed merger or other acquisition of control does not change the controlling person of the insurer.

**SECTION 17.** 611.78 (1m) (b) (intro.) of the statutes is amended to read:

611.78 (1m) (b) (intro.) A sale, lease, exchange or other disposition of all or substantially all of the property and assets under par. (a) of a mutual may be made upon such terms and conditions as may be authorized ~~only~~ in the following manner:

**SECTION 18.** 628.10 (2) (a) of the statutes is amended to read:

628.10 (2) (a) *For failure to comply with continuing education requirements.* ~~The commissioner may by order suspend the license of any intermediary who fails to produce evidence of compliance with continuing education standards set by the commissioner is suspended, effective on the day on which the evidence of compliance is due.~~ If an intermediary whose license has been suspended under this paragraph produces evidence of compliance within 60 days after the date on which the license is suspended, the commissioner shall reinstate the license effective on the date of suspension. If such an intermediary does not produce evidence of compliance within 60 days, the license is revoked and the intermediary may be relicensed only after satisfying all requirements under s. 628.04.

**SECTION 19.** 628.77 of the statutes is repealed.

**SECTION 20.** 632.47 (3) of the statutes is renumbered 632.47 (3) (intro.) and amended to read:

632.47 (3) **GROUP ANNUITIES PROHIBITION ON ASSIGNMENT.** (intro.) Assignment may be expressly prohibited by a any of the following:

(a) A group contract providing annuities as retirement benefits.

**SECTION 21.** 632.47 (3) (b) of the statutes is created to read:

632.47 (3) (b) An annuity contract that is subject to transferability restrictions under any federal or state tax, employe benefit or securities law.

**SECTION 22.** 632.55 of the statutes is repealed.

**SECTION 23.** 644.04 (3) (intro.) of the statutes is amended to read:

644.04 (3) (intro.) ~~Subject to s. 611.33, the~~ The converted insurance company, subject to s. 611.33, and any intermediate stock holding company may thereafter issue to 3rd parties debt securities, stock other than voting stock and, subject to s. 644.15, voting stock, so long as all of the following are true:

**SECTION 24.** 644.05 (1) of the statutes is amended to read:

644.05 (1) **POWERS.** ~~Section 181.04 Subject to s. 644.19 (2) and (3), s. 181.0302 (intro.), (1) to (15), (18) and (19)~~ applies to mutual holding companies.

**SECTION 25.** 644.05 (2) of the statutes is amended to read:

644.05 (2) **EFFECT OF UNAUTHORIZED CORPORATE ACTS.** ~~Section 181.057 (1) and (2) 181.0304~~ applies to mutual holding companies, except that, for purposes of this subsection, "attorney general" used in s. 181.0304 (3) means "commissioner".

**SECTION 26.** 644.05 (3) of the statutes is repealed.

**SECTION 27.** 644.05 (4) of the statutes is amended to read:

644.05 (4) **WAIVER OF NOTICE AND INFORMAL ACTION BY MEMBERS OR DIRECTORS.** ~~Sections 181.70 and 181.72 181.0704, 181.0706, 181.0821 and 181.0823~~ apply to mutual holding companies. For purposes of this subsection, "board" used in s. 181.0821 includes "committee of the board of a mutual holding company".

**SECTION 28.** 644.08 of the statutes is amended to read:

**644.08 Reservation of corporate name.** ~~Section 181.07~~ applies Sections 181.0402 and 181.0403 (2), (3) and (3m) apply to mutual holding companies.

**SECTION 29.** 644.09 (1) (intro.) of the statutes is amended to read:

644.09 (1) **ARTICLES.** (intro.) ~~Section 181.31 181.0202~~ applies to the articles of a mutual holding company, except that all of the following apply:

**SECTION 30.** 644.09 (1) (a) of the statutes is amended to read:

644.09 (1) (a) The name of the mutual holding company shall include the word "mutual" and shall comply with ~~s. 181.06 (3) 181.0401 (2) to (4).~~

**SECTION 31.** 644.09 (2) of the statutes is amended to read:

644.09 (2) **AMENDMENT OF ARTICLES.** A mutual holding company may amend its articles in the manner provided in ~~ss. 181.35 to 181.37 and 181.39 181.1001, 181.1002 (1), 181.1003, 181.1005 and 181.1006,~~ except that papers required by those sections to be filed with the department of financial institutions shall instead be filed with the commissioner. The articles may be amended in any desired respect, including substantial changes of its original purposes, except that no amendment may be made that is contrary to sub. (1). In addition to the

requirements of s. ~~481.37~~ 181.1005, the articles of amendment of a mutual holding company shall, if mail voting is used, state the number of members voting by mail and the number of such members voting for and against the amendment. No amendment may become effective until the articles of amendment have been filed with the commissioner. No amendment shall affect any existing cause of action in favor of or against such mutual holding company, any ~~pending suit~~ civil, criminal, administrative or investigatory proceeding to which the mutual holding company is a party or the existing rights of persons other than members. In the event that the corporate name is changed by amendment, no suit brought by or against such mutual holding company under its former name shall abate for that reason.

**SECTION 32.** 644.09 (3) of the statutes is amended to read:

644.09 (3) **BYLAWS.** The bylaws of a mutual holding company shall comply with this chapter. A copy of the bylaws and any amendments to the bylaws shall be filed with the commissioner within 60 days after adoption. Subject to this subsection, ~~s. 181.13~~ ss. 181.0206, 181.0207 and 181.1021 apply to mutual holding companies.

**SECTION 33.** 644.09 (4) of the statutes is amended to read:

644.09 (4) **PRINCIPAL OFFICERS.** ~~Section 181.25 (1) and (2) applies~~ Sections 181.0840 and 181.0841 apply to mutual holding companies.

**SECTION 34.** 644.14 (1) of the statutes is amended to read:

644.14 (1) **COMMUNICATION TO MEMBERS; MEMBER VOTING.** Subject to this section, ss. 611.41, 611.42 (1), ~~(1e), (1m),~~ (2), (3), (4) (a) and (5), 611.43 and 611.53 (2) apply to mutual holding companies.

**SECTION 35.** 644.16 (1) of the statutes is amended to read:

644.16 (1) **BOARD OF DIRECTORS.** Subject to this section, ss. ~~181.18, 181.21~~ 181.0801 (1) and (2), 181.0802, 181.0811, 611.51 (2), (3), (5) and (8) and 611.53 (1) and (3) apply to mutual holding companies. Section ~~181.22~~ 181.0824 applies to the board of a mutual holding company except as modified by s. ~~181.225~~ 611.10. The board shall manage the business and affairs of the corporation and may not delegate its power or responsibility to do so, except to the extent authorized by ss. ~~181.23 and 181.25~~ (2) 181.0825 and 181.0841.

**SECTION 36.** 644.16 (2) of the statutes is amended to read:

644.16 (2) **COMMITTEES OF DIRECTORS.** Section ~~181.23~~ 181.0825 applies to mutual holding companies.

**SECTION 37.** 644.16 (3) (a) of the statutes is amended to read:

644.16 (3) (a) Section 611.51 (9) ~~(a)~~ (am) and (b) applies to mutual holding companies.

**SECTION 38.** 644.16 (4) of the statutes is amended to read:

644.16 (4) **DIRECTOR CONFLICTS OF INTEREST.** Section ~~181.225~~ 611.60 applies to mutual holding companies.

**SECTION 39.** 644.17 of the statutes is amended to read:

**644.17 Removal of officers.** ~~Section 181.26~~ Sections 181.0843 and 181.0844 apply to mutual holding companies.

**SECTION 40.** 644.18 of the statutes is amended to read:

**644.18 Directors' and officers' liability and indemnification. (1) LIABILITY.** Sections ~~181.283 to 181.29~~ 181.0850 to 181.0855, except s. 181.0855 (2) (c), apply to mutual holding companies.

**(2) INDEMNIFICATION.** Sections ~~181.041 to 181.051~~ 181.0871 to 181.0881 and 181.0889 apply to mutual holding companies.

**(3) INSURANCE.** Section ~~181.053~~ 181.0883 applies to mutual holding companies.

**(4) DERIVATIVE ACTIONS.** ~~Section 181.295~~ Sections 181.0740 to 181.0747 apply to mutual holding companies.

**SECTION 41.** 644.19 of the statutes is amended to read:

**644.19 Executive compensation. (1) GENERAL.** Sections ~~181.19 and~~ Section 611.63 (4) and (5) apply applies to mutual holding companies.

**(2) APPROVAL BY MEMBERS.** A benefit plan or amendment to a benefit plan that proposes to provide benefits in the form of stock or stock options of a converted insurance company or any intermediate stock holding company to the directors or officers of the converted insurance company, intermediate stock holding company or mutual holding company may not take effect unless it is submitted to a vote of the members of the mutual holding company and approved by a majority of the members voting. Notice of a meeting at which a vote under this subsection will be taken shall be given in accordance with s. ~~181.15, as provided in s. 644.14 (1), or in accordance with s. 644.14 (2).~~

**(3) NOTICE TO COMMISSIONER.** The commissioner may by rule require that any action taken by the board of a mutual holding company, or the board of any intermediate stock holding company, on any of the subjects specified in ss. ~~181.04 (15) and 181.19~~ s. 181.0302 (11) to (14) be reported to the commissioner within 30 days after the action is taken.

**SECTION 42.** 644.26 of the statutes is repealed and recreated to read:

**644.26 Transfer of business or assets of mutual holding companies. (1)** A sale, lease, exchange or other disposition of less than substantially all of the property and assets of a mutual holding company, and the mortgage or pledge of any or all property and assets of a

mutual holding company, whether or not made in the usual and regular course of its affairs, may be made upon the terms and conditions authorized by the mutual holding company's board of directors. Unless otherwise provided by the articles of incorporation, consent of the members is not required for a sale, lease, exchange or other disposition of property, or for a mortgage or pledge of property, authorized under this subsection.

(2) A sale, lease, exchange or other disposition of all or substantially all of the property and assets of a mutual holding company may be made upon such terms and conditions as may be authorized in the following manner:

(a) If the articles of incorporation give members the right to vote on the sale, lease, exchange or other disposition of all or substantially all of the mutual holding company's property and assets, the board of directors shall adopt a resolution recommending the sale, lease, exchange or other disposition and directing that it be submitted to a vote at an annual or special meeting of the members. Written notice stating that the purpose, or one of the purposes, of the meeting is to consider the sale, lease, exchange or other disposition of all or substantially all of the property and assets of the mutual holding company shall be given to each member entitled to vote at the meeting, within the time and in the manner provided by this chapter for providing notice of member meetings. At the meeting, the members may authorize the sale, lease, exchange or other disposition and may authorize the board of directors to fix any or all of the terms and conditions of the sale, lease, exchange or other disposition. The authorization shall be by the affirmative vote of at least two-thirds of the members present or represented by proxy at the meeting. After the authorization by a vote of the members, the board of directors, nevertheless, in its discretion, may abandon the sale, lease, exchange or other disposition, subject to the rights of 3rd parties under any contracts relating thereto, without further action or approval by the members.

(b) If the articles of incorporation do not give members the right to vote on the sale, lease, exchange or other disposition of all or substantially all of a mutual holding company's property and assets, the sale, lease, exchange or other disposition may be authorized by the vote of the majority of the directors in office.

**SECTION 43.** 644.28 (1) of the statutes is amended to read:

644.28 (1) **PLAN OF DISSOLUTION.** Subject to this section, ss. ~~181.50 to 181.54 and 181.555~~ 181.1401 to 181.1407 apply to mutual holding companies, ~~except that the last sentence of s. 181.555 does not apply.~~

**SECTION 44.** 644.28 (2) (a) of the statutes is amended to read:

644.28 (2) (a) At least 60 days prior to the submission to members of any proposed voluntary dissolution of a mutual holding company under s. ~~181.50~~ 181.1401, the plan shall be filed with the commissioner. The commis-

sioner may require the submission of additional information relevant to the effect of the proposed dissolution on the solvency of the converted insurance company. The commissioner shall approve the dissolution unless, after a hearing, the commissioner finds that dissolution of the mutual holding company would cause the converted insurance company to become insolvent, would be unfair or inequitable to the members of the mutual holding company or would not be in the best interests of the policyholders of the converted insurance company or the public.

**SECTION 45.** 644.28 (3) of the statutes is amended to read:

644.28 (3) **REVOCAION OF VOLUNTARY DISSOLUTION.** If the mutual holding company revokes the voluntary dissolution proceedings under s. ~~181.53~~ 181.1404, a copy of the resolution revoking the voluntary dissolution proceedings adopted under s. ~~181.53~~ 181.1404 shall be filed with the commissioner.

**SECTION 46.** 644.28 (4) of the statutes is amended to read:

644.28 (4) **FILING AND RECORDING ARTICLES OF DISSOLUTION AND EFFECT THEREOF.** Upon approval by the commissioner under sub. (2) and by the members under s. ~~181.50~~ 181.1401, the mutual holding company shall file articles of dissolution with the commissioner. When the articles are filed, the existence of the mutual holding company shall cease, except for the purpose of suits, other proceedings and appropriate corporate action of members, directors and officers as provided in this chapter and in ss. ~~181.50 to 181.54 and 181.555~~ 181.1401 to 181.1407. Upon the filing of the articles, the commissioner may issue a certificate of dissolution.

**SECTION 47.** 644.29 of the statutes is amended to read:

**644.29 Involuntary dissolution of domestic mutual holding companies.** A mutual holding company may at any time during a voluntary dissolution under ss. ~~181.51 to 181.555~~ 181.1401 to 181.1407 apply to the commissioner to have dissolution continued under the commissioner's supervision, ~~in which case, subject to this section, s. 181.56 (1) and (2) applies to the mutual holding company except that for purposes of this section "attorney general" means the commissioner.~~ Any distribution to members shall be limited in the same manner as under s. 644.28 (5) and any excess over such amounts shall be paid into the state treasury to the credit of the common school fund.

**SECTION 48.** 645.68 (intro.) of the statutes is amended to read:

**645.68 Order of distribution.** (intro.) The order of distribution of claims from the insurer's estate shall be as stated in this section. The first \$50 of the amount allowed on each claim in the classes under subs. ~~(2)~~ (3) to (6), ~~except for claims of the federal government under subs. (3) and (3c).~~ shall be deducted from the claim and

included in the class under sub. (8). Claims may not be cumulated by assignment to avoid application of the \$50 deductible provision. Subject to the \$50 deductible provision, every claim in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. No subclasses shall be established within any class. That portion of any loss for which indemnification is provided by other benefits or advantages recovered or recoverable by the claimant shall not be included in the classes under subs. (3) and (3m), other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment made by an employer to an employe shall be treated as a gratuity. The claims described in s. 645.69 are among the claims not subject to subs. (3) and (3m).

**SECTION 49.** 645.68 (2) of the statutes is renumbered 645.68 (3r).

**SECTION 50.** 645.68 (3) of the statutes is amended to read:

645.68 (3) LOSS CLAIMS. All claims under policies for losses incurred, including third party claims, ~~and all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies and federal, state and local government claims,~~ except the first \$200 of losses otherwise payable to any claimant under this subsection other than the federal government. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds or investment values, shall be treated as loss claims. Claims may not be cumulated by assignment to avoid application of the \$200 deductible provision. ~~That portion of any loss for which indemnification is provided by other benefits or advantages recovered or recoverable by the claimant shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment made by an employer to an employe shall be treated as a gratuity. The claims described in s. 645.69 are among the claims not subject to this subsection.~~

**SECTION 51.** 645.68 (3c) of the statutes is created to read:

645.68 (3c) FEDERAL GOVERNMENT CLAIMS AND INTEREST. Claims of the federal government not included under sub. (3), and interest at the legal rate compounded annually on all claims in the class under this subsection, and on all claims of the federal government in the class under sub. (3), from the date of the petition for liquidation or the date on which the claim becomes due, whichever is later, until the date on which the dividend is declared.

**SECTION 52.** 645.68 (3m) of the statutes is created to read:

645.68 (3m) CERTAIN INJURY CLAIMS. Claims against the insurer that are not under policies and that are for liability for bodily injury or for injury to or destruction of tangible property.

**SECTION 53.** 645.68 (3r) (c) of the statutes is created to read:

645.68 (3r) (c) Notwithstanding pars. (a) and (b) and subs. (3), (3c) and (3m), if there are no claims of the federal government, the claims in the class under this subsection shall have priority over all claims in the classes under subs. (3) to (11).

**SECTION 54.** 645.68 (5) of the statutes is amended to read:

645.68 (5) RESIDUAL CLASSIFICATION. All other claims, including claims of ~~the federal~~ or any state or local government, not falling within other classes under this section and claims described in s. 645.69. Claims, including those of any state or local governmental body, for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under sub. (8).

**SECTION 55.** 645.68 (7) of the statutes is amended to read:

645.68 (7) INTEREST ON CLAIMS ALREADY PAID. Interest at the legal rate compounded annually on all claims in the classes under subs. (1) to (6), except for claims of the federal government in the classes under subs. (3) and (3c), from the date of the petition for liquidation or the date on which the claim becomes due, whichever is later, until the date on which the dividend is declared. The liquidator, with the approval of the court, may make reasonable classifications of claims for purposes of computing interest, may make approximate computations and may ignore certain classifications and time periods that are trifling.

**SECTION 56.** 645.68 (8) (a) of the statutes is amended to read:

645.68 (8) (a) The Except for claims of the federal government under subs. (3) and (3c), the first \$50 of each claim in the classes under subs. (2) (3) to (6) subordinated under this section;

**SECTION 57.** 645.68 (8) (b) of the statutes is amended to read:

645.68 (8) (b) Claims under s. 645.63 (2);

**SECTION 58.** 645.68 (8) (c) of the statutes is amended to read:

645.68 (8) (c) Claims subordinated by s. 645.90;

**SECTION 59.** 645.68 (8) (d) of the statutes is amended to read:

645.68 (8) (d) Claims filed late;

**SECTION 60.** 645.68 (8) (e) of the statutes is amended to read:

645.68 (8) (e) Portions of claims subordinated under sub. (5);

**SECTION 61.** 645.68 (8) (f) of the statutes is amended to read:

645.68 (8) (f) Claims or portions of claims payment of which is provided by other benefits or advantages recovered or recoverable by the claimant; and

**SECTION 62.** 646.13 (1) (b) (intro.) of the statutes is renumbered 646.13 (1) (b) and amended to read:

646.13 (1) (b) Stand in the position of the insurer in the investigation, compromise, settlement, denial and payment of claims under s. 646.31 and the defense of 3rd party claims against insureds, subject to the limitations of s. 645.43. The board shall consult and cooperate with the liquidator in carrying out these duties. ~~The board has no duties or liabilities with respect to any claim filed as follows:~~

**SECTION 63.** 646.13 (1) (b) 1. of the statutes is renumbered 646.13 (3) (a) and amended to read:

646.13 (3) (a) With the liquidator under s. 645.61 after the date for filing specified by the liquidator under s. 645.47 (2), unless the liquidator determines that the claim is considered to have been timely filed under s. 645.61 (2) and the claim participates fully in the same every distribution to the same extent as other timely filed claims in the same class.

**SECTION 64.** 646.13 (1) (b) 2. of the statutes is renumbered 646.13 (3) (b) and amended to read:

646.13 (3) (b) With a liquidator or court under the laws of any other state after the date for filing specified by the liquidator or court, unless the liquidator or court determines that the claim is considered to have been timely filed under a law substantially similar to s. 645.61 (2) and the claim participates fully in the same every distribution to the same extent as other timely filed claims in the same class.

**SECTION 65.** 646.13 (2) (e) of the statutes is created to read:

646.13 (2) (e) Pursue salvage and subrogation with respect to paid covered claim obligations and retain any amounts recovered.

**SECTION 66.** 646.13 (2) (f) of the statutes is created to read:

646.13 (2) (f) Appoint and direct legal counsel for the defense of covered claims under insurance policies.

**SECTION 67.** 646.13 (3) (intro.) of the statutes is created to read:

646.13 (3) NO DUTY OR LIABILITY. (intro.) The board has no duty or liability with respect to any claim filed as follows:

**SECTION 68.** 646.13 (3) (c) of the statutes is created to read:

646.13 (3) (c) Except for claims under life insurance policies, annuities and noncancelable or guaranteed renewable disability insurance policies and except for claims determined to be excused late filings as provided

in pars. (a) and (b), with a liquidator or court after the earlier of the following:

1. Eighteen months after the order of liquidation is entered.

2. The final date for filing specified by the liquidator or court.

**SECTION 69.** 646.13 (4) of the statutes is created to read:

646.13 (4) WHEN DUTY TO DEFEND TERMINATES. Any obligation of the board to defend an insured ceases upon the board's payment, by settlement releasing the insured or on a judgment, of an amount equal to the lesser of the board's covered claim obligation limit or the applicable policy limit, subject to any express policy terms regarding tender of limits.

**SECTION 70.** 646.15 (1) (a) 2. of the statutes is amended to read:

646.15 (1) (a) 2. The institution or further prosecution of any action or proceeding involving the insurer or in which the board is obligated to defend a party.

**SECTION 71.** 646.31 (1) (a) of the statutes is amended to read:

646.31 (1) (a) *Issued by authorized insurer.* The claim arises out of an insurance policy or annuity issued by an insurer which is ~~in liquidation and which~~ was authorized to do business in this state either at the time the policy or annuity was issued or when the insured event occurred, and against which an order of liquidation, which is not stayed, has been entered by a court of competent jurisdiction in the insurer's domiciliary state.

**SECTION 72.** 646.31 (1) (cm) of the statutes is created to read:

646.31 (1) (cm) *Termination of coverage.* Except for claims under life insurance policies, annuities or noncancelable or guaranteed renewable disability insurance policies, the claim arises within 30 days after the order of liquidation is entered or before any of the following occur:

1. The policy expires, if the expiration date is less than 30 days after the order of liquidation is entered.

2. The insured replaces or cancels the policy, if either action is taken within 30 days after the order of liquidation is entered.

**SECTION 73.** 646.31 (2) (c) of the statutes is amended to read:

646.31 (2) (c) *Owners of property interests.* The first-party claim of a person having an insurable interest in or related to property ~~which was situated~~ with a permanent location in this state at the time of the insured event.

**SECTION 74.** 646.31 (2) (d) (intro.) and 1. of the statutes are consolidated, renumbered 646.31 (2) (d) and amended to read:

646.31 (2) (d) *Third party claimants.* A claim under a liability or workers' compensation insurance policy, if: ~~1. Either either~~ the insured or the 3rd party claimant was a resident of this state at the time of the insured event;

**SECTION 75.** 646.31 (2) (d) 2. of the statutes is repealed.

**SECTION 76.** 646.31 (2) (d) 3. of the statutes is repealed.

**SECTION 77.** 646.31 (6) (a) of the statutes is amended to read:

646.31 (6) (a) The portion of a loss claim for which indemnification is provided by other benefits or advantages, which may not be included in the ~~class~~ classes of claims ~~defined by specified in~~ s. 645.68 (3) (intro.), may not be claimed from the fund under this chapter.

**SECTION 78.** 646.31 (13) of the statutes is created to read:

646.31 (13) RESIDENCY. For purposes of determining residency in this section, the residency of a claimant, insured or policyholder that is not a natural person is the state in which the claimant's, insured's or policyholder's principal place of business is located.

**SECTION 79.** 646.51 (9) of the statutes is created to read:

646.51 (9) OBLIGATION TO CONTRIBUTE CEASES. (a) Except as provided in par. (b), if an insurer's license or certificate of authority to do business in this state terminates or expires, the insurer's obligation to pay assessments under this section ceases beginning on the day after the insurer's license or certificate of authority terminates or expires.

(b) An insurer whose license or certificate of authority to do business in this state terminates or expires remains liable after the termination or expiration to pay all of the following:

1. Assessments made or called before the insurer's license or certificate of authority terminated or expired.

2. Assessments made or called after the insurer's license or certificate of authority terminated or expired that relate to a liquidation order entered before the insurer's license or certificate of authority terminated or expired.

**SECTION 80.** 646.60 (1) (a) of the statutes is amended to read:

646.60 (1) (a) *Settlements by the fund.* The liquidator is bound by determinations and settlements of covered loss claims, and by payments of claims, made by the board under this chapter.

**SECTION 81.** 646.60 (1) (b) (intro.) of the statutes is amended to read:

646.60 (1) (b) *Settlements by comparable funds.* (intro.) The liquidator is bound by determinations and settlements of covered loss claims, and by payments of claims, made by funds or organizations of other states that are comparable to the fund under this chapter ~~provided~~ if all of the following apply:

**SECTION 82.** 646.60 (1) (b) 1. of the statutes is amended to read:

646.60 (1) (b) 1. ~~That the~~ The laws of the other states give equivalent recognition to the determinations and settlements of loss claims, and to payments of claims, made by the fund; ~~and.~~

**SECTION 83.** 646.60 (1) (b) 2. of the statutes is amended to read:

646.60 (1) (b) 2. ~~That if~~ If the same claim is reported as paid by 2 or more funds, payment shall be to the fund with a prior obligation under s. 646.31 (7) (9).

**SECTION 84. Initial applicability.**

(1) The treatment of sections 601.13 (2), 645.68 (intro.), (2), (3), (3c), (3m), (3r) (c), (5), (7) and (8) (a), (b), (c), (d), (e) and (f), 646.13 (3) (c) and 646.31 (1) (cm) of the statutes first applies to liquidation proceedings for which liquidation orders are entered on the effective date of this subsection.

(2) The treatment of sections 646.13 (1) (b) (intro.), 1. and 2., (2) (e) and (f), (3) (intro.) and (4), 646.15 (1) (a) 2., 646.31 (1) (a), (2) (c) and (d) (intro.), 1., 2. and 3., (6) (a) and (13), 646.51 (9) and 646.60 (1) (a) and (b) (intro.), 1. and 2. of the statutes first applies to liquidation proceedings pending on the effective date of this subsection.

(3) The treatment of sections 76.635 (2) and (3) and 76.67 (2) of the statutes first applies to taxable years beginning on January 1, 1999.